

By the present amendment, claims 14 and 15 have been added. Upon entry of this amendment, claims 1-15 will be pending in the application.<sup>1</sup>

### ***Double Patenting Rejection***

Claims 1-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,848,064, claims 1-10 of U.S. Patent No. 6,031,830, and claims 1-26 of U.S. Patent No. 6,308,061. A terminal disclaimer is being submitted to obviate these double-patenting issues.

### ***Claim Rejections - 35 USC §102***

Claims 1 and 13 have been rejected as being anticipated by U.S. Patent No. 5,909,437 to Rhodes. Rhodes discloses a telecommunications system that includes service areas 12, 14 and 16. Each service area 12/14/16 is served by a respective central terminal 10 which establishes a radio link with subscriber terminals 20 within the area concerned. The central terminals 10 are connected to each other by links 13/15/17 which interface with a public switched telephone network 18. (See Rhodes Figure 1, below.) The subscriber terminal 20 comprises a customer radio unit 24 mounted on the customer's premises and connected via a power supply unit 30 to a network terminal unit 32, which in turn is connected to telecommunications equipment (i.e., a telephone 34, a facsimile machine 36, a computer 38) in the customer's premises. (See Rhodes Figure 2, below.)

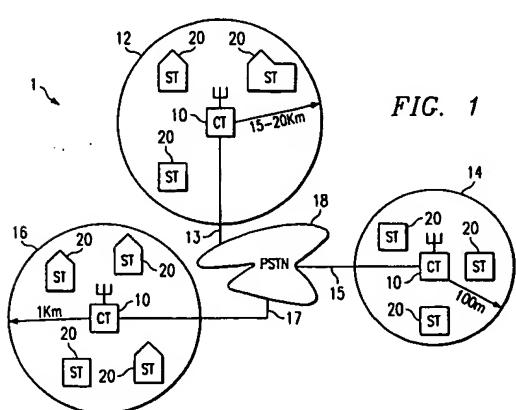


FIG. 1

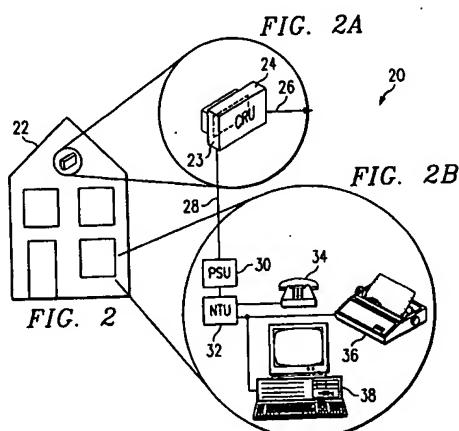


FIG. 2A

FIG. 2B

<sup>1</sup>The indicated allowability of claim 12 is noted with appreciation.

The Rhodes system is based on providing fixed microwave links between subscriber terminals 20 at fixed locations within a service area and the central terminal 10 for that service area. In other words, the Rhodes system “is intended to be used with fixed subscriber locations rather than the more familiar mobile cellular telephone systems.” Accordingly, Rhodes does not show or suggest the “mobile devices” set forth in claim 1 and claim 13.

### ***Claim Rejections - 35 USC §103***

Claims 1, 5, 6-8, 10 and 11 have been rejected as being obvious over U.S. Patent No. 6,128,483 to Trompower in view of U.S. Patent No. 5,909,581 to Park. Claims 2-4 and 9 have been rejected as being obvious over Trompower in view of Park and further in view of U.S. Patent No. 5,473,772 to Halliwell.

The Examiner appears to admit that Trompower does not show or suggest using an FTP server and/or updating the mobile device operating software from the host computer and/or the FTP server. However, he contends that Park discloses an automatic software updating which includes using FTP protocol in which new software is only downloaded when required through a comparison of version codes. The Examiner concludes that it would have been obvious to combine these features of the Park invention to the Trompower system “because this will ensure efficient use of communication resources by providing updating only when needed.”

The Trompower patent is directed towards a wireless communication system and, more particularly, towards “a hand-off protocol between cells in a cellular communication system” which “helps minimize down time associated with a mobile device roaming among different cells in which different cells employ different communication channels (e.g., different frequency hopping sequences).” During times when a mobile device is not registered to a base station or is otherwise attempting to register with a new base station, no communication can occur between the mobile device and devices situated on the system backbone. As a result, users often experience down time where it appears that their mobile device has locked up so as not to permit communications. This can be both frustrating to the user and detrimental to the overall system performance.

To eliminate this frustration and detriment, Trompower discloses a communication system wherein, when a mobile terminal 166 newly registers with a

base station 154/156, it transmits an update packet to the new base station 154/156.<sup>2</sup>

Upon such transmittal:

[T]he processor 176/176' updates the time stamp and test pattern interval information in its roaming table for the specified base station based on the information in the mobile terminal update packet. Specifically, the processor 176,176' takes the [channel number;  $t_{\text{dwell}}$ ] information from the mobile terminal update packet and replaces the previous time stamp 304 information therewith. At the same time, the processor 176,176' replaces the value of the time tag  $t_{\text{ref}}$  in the previous time stamp 304 with the value of the counter 192 or the counter 192 and the counter 194 at the time the mobile terminal update packet is received. Also at the same time, the processor 176,176' replaces the test pattern interval 308 information previously stored in the roaming table 296 with the updated test pattern information in the mobile terminal update packet.<sup>3</sup>

[T]he processor 176, 176' is programmed to broadcast in step 460 the updated time stamp and test pattern interval information obtained in step 466 to any mobile terminal 166 capable of receiving information transmitted from the current base station 154,156. The mobile terminals receiving such information are in turn programmed to disregard information pertaining to a base station not included in its reduced roaming table 320. The mobile terminals 166 are programmed then to update the information in their reduced roaming table 320 based on the update packet.<sup>4</sup>

The Examiner rests his Trompower/Park rejection on the premise that this proposed combination "will ensure efficient use of communication resources by providing updating only when desired or needed." However, Trompower already has a method for providing updating only when needed, as updates occur only when a mobile terminal newly registers with a base station. In fact, Trompower appears to want to

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<sup>2</sup>The update packet includes current hopping sequence timing information and test pattern information for the base station with which the mobile terminal was previously registered.

<sup>3</sup>Column 25, lines 9-25.

<sup>4</sup>Column 25, lines 26-37.

take advantage of the mobile devices which roam from one cell to another as they are used to provide the new base station with updated hopping sequence information of the previous base station. What motivation would one have to incorporate any of the Park teachings into the Trompower system? Trompower certainly does not provide such motivation and Park, which is not really concerned with "roaming mobile devices" cannot bridge this gap. As for the Halliwell reference, it does nothing to cure the shortcomings in the proposed Trompower/Park combination.

### ***Conclusion***

In view of the foregoing, this application is now believed to be in a condition for allowance and an early indication to that effect is earnestly solicited.

Respectfully submitted,

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#### **CERTIFICATE OF MAILING (37 CFR 1.8a)**

I hereby certify that this paper (along with any paper or thing referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: November 12, 2004

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